

A.2

Designation Run Report

Howard, June - Defendants' Affirmatives 7-8-21 8am

Howard, June 04-25-2019

Defendants' Affirmatives 00:07:52

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12:16 - 12:20	Howard, June 04-25-2019 (00:00:09) 12:16 Q. My name is Chris Eppich. I represent 12:17 McKesson in this litigation. 12:18 Would you please state your full name 12:19 for the record. 12:20 A. June Howard.	V130.1
13:23 - 14:06	Howard, June 04-25-2019 (00:00:23) 13:23 Q. You understand that you're providing 13:24 testimony on behalf of DEA today? 13:25 A. Yes. 14:1 MR. EPPICH: I'd like to mark as 14:2 Exhibit 1 the amended notice of the deposition 14:3 of Ms. Howard. 14:4 (Howard Deposition Exhibit 1 marked for 14:5 identification and attached to the 14:6 transcript.)	V130.2
14:25 - 15:03	Howard, June 04-25-2019 (00:00:06) 14:25 Q. Do you understand it to be the letter 15:1 authorizing your testimony on certain subjects 15:2 on behalf of DEA? 15:3 A. Yes.	V130.3
15:11 - 15:19	Howard, June 04-25-2019 (00:00:26) 15:11 Q. If you could turn to page 6 and 15:12 topic 11. Topic 11 states, "Your practice of 15:13 notifying DEA-registered distributors when 15:14 another distributor terminated its relationship 15:15 with a customer due to the risk of diversion, 15:16 including when and why you disseminated [sic] 15:17 such practice." 15:18 Are you authorized by the DEA to testify 15:19 on this topic today?	V130.4
15:23 - 15:23	Howard, June 04-25-2019 (00:00:00) 15:23 THE WITNESS: Yes.	V130.5
15:25 - 16:02	Howard, June 04-25-2019 (00:00:05) 15:25 Q. And you're prepared to testify on this 16:1 topic here today? 16:2 A. Yes.	V130.6
17:24 - 18:08	Howard, June 04-25-2019 (00:00:20) 17:24 Q. Now, you're currently the chief of the 17:25 reports analyst group unit -- or excuse me,	V130.7

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	18:1 chief of the reports analyst unit; is that	
	18:2 correct?	
	18:3 A. Reports analysis unit.	
	18:4 Q. Thank you.	
	18:5 And is that -- is that a new -- is that	
	18:6 the same as the chief of the targeting and	
	18:7 analysis unit?	
	18:8 A. Yes.	
19:10 - 19:13	Howard, June 04-25-2019 (00:00:08)	V130.8
	19:10 Q. You were the chief of the targeting and	
	19:11 analysis unit from 1996 to 2010; is that	
	19:12 correct?	
	19:13 A. Correct.	
22:02 - 22:04	Howard, June 04-25-2019 (00:00:08)	V130.9
	22:2 Q. Did you join the targeting and analysis	
	22:3 unit as the chief of that unit in 1996?	
	22:4 A. Yes.	
28:17 - 29:01	Howard, June 04-25-2019 (00:00:36)	V130.10
	28:17 Q. Following the first of the distributor	
	28:18 briefings in 2005, DEA established an e-mail	
	28:19 group to announce actions taken by distributors	
	28:20 to either discontinue or limit supply to	
	28:21 customers.	
	28:22 A. Yes.	
	28:23 Q. And these termination notices identified	
	28:24 customers distributors had discontinued or	
	28:25 restricted business with, correct?	
	29:1 A. Correct.	
29:19 - 30:01	Howard, June 04-25-2019 (00:00:20)	V130.11
	29:19 Q. Did the DEA want distributors to make	
	29:20 informed decisions about the customers that they	
	29:21 signed up to distribute to?	
	29:22 A. Yes.	
	29:23 Q. DEA understood that distributors trying	
	29:24 to identify potential diversion would benefit	
	29:25 from access to more information than just their	
	30:1 own sales data and customer observations, right?	
30:06 - 30:06	Howard, June 04-25-2019 (00:00:00)	V130.12
	30:6 THE WITNESS: Yes.	
30:08 - 30:11	Howard, June 04-25-2019 (00:00:10)	V130.13

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30:14 - 30:16	<p>30:8 Q. And if the distributors knew the name of</p> <p>30:9 the pharmacies that had been cut off by other</p> <p>30:10 distributors, it could help them identify</p> <p>30:11 potential diversion, correct?</p> <p>Howard, June 04-25-2019 (00:00:08)</p> <p>30:14 THE WITNESS: The information is</p> <p>30:15 limited. They would need more than notification</p> <p>30:16 of pharmacies that have been cut off.</p>	V130.14
31:03 - 31:06	<p>Howard, June 04-25-2019 (00:00:10)</p> <p>31:3 Q. You would agree that the more</p> <p>31:4 information the distributor has on the pharmacy,</p> <p>31:5 the more helpful that would be to prevent</p> <p>31:6 diversion, correct?</p>	V130.15
31:10 - 31:10	<p>Howard, June 04-25-2019 (00:00:00)</p> <p>31:10 THE WITNESS: Yes.</p>	V130.16
31:12 - 31:14	<p>Howard, June 04-25-2019 (00:00:10)</p> <p>31:12 Q. Now, DEA considered the termination</p> <p>31:13 notices to be a valuable lead to identify the</p> <p>31:14 source -- a source of diversion, right?</p>	V130.17
31:16 - 31:16	<p>Howard, June 04-25-2019 (00:00:01)</p> <p>31:16 THE WITNESS: Yes.</p>	V130.18
34:06 - 34:12	<p>Howard, June 04-25-2019 (00:00:16)</p> <p>34:6 Would you agree that the DEA knew and</p> <p>34:7 understood that the vast majority of</p> <p>34:8 distributors, upon receiving a termination</p> <p>34:9 notice, they would conduct additional due</p> <p>34:10 diligence or potentially stop supplying a</p> <p>34:11 customer that another distributor had</p> <p>34:12 terminated?</p>	V130.19
34:15 - 34:15	<p>Howard, June 04-25-2019 (00:00:01)</p> <p>34:15 THE WITNESS: Yes.</p>	V130.20
41:23 - 42:01	<p>Howard, June 04-25-2019 (00:00:12)</p> <p>41:23 Q. Was it DEA's general practice to perform</p> <p>41:24 any type of investigation into the pharmacies</p> <p>41:25 and doctors identified in the termination</p> <p>42:1 notices sent to distributors?</p>	V130.21
42:06 - 42:06	<p>Howard, June 04-25-2019 (00:00:01)</p> <p>42:6 THE WITNESS: I don't know.</p>	V130.22
42:08 - 42:11	<p>Howard, June 04-25-2019 (00:00:12)</p> <p>42:8 Q. Was it DEA's general practice to use</p>	V130.23

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42:9 - 42:15	42:9 ARCOS to investigate any of the pharmacies and 42:10 doctors identified in the termination notices 42:11 sent to distributors? Howard, June 04-25-2019 (00:00:02)	V130.24
42:17 - 42:19	42:15 THE WITNESS: I don't know. Howard, June 04-25-2019 (00:00:08)	V130.25
42:23 - 42:23	42:17 Q. Was it DEA's general practice to set up 42:18 any monthly monitoring of the pharmacies and 42:19 doctors identified in the termination notices? Howard, June 04-25-2019 (00:00:01)	V130.26
42:25 - 42:25	42:23 THE WITNESS: I don't know. Howard, June 04-25-2019 (00:00:02)	V130.27
43:04 - 43:05	42:25 Q. DEA had that capability, didn't it? Howard, June 04-25-2019 (00:00:01)	V130.28
43:07 - 43:09	43:4 THE WITNESS: Can you repeat? The 43:5 capability to do what? Howard, June 04-25-2019 (00:00:09)	V130.29
43:11 - 43:12	43:7 Q. The capability to set up a monthly 43:8 monitoring of the pharmacies and doctors that 43:9 were identified in these termination notices. Howard, June 04-25-2019 (00:00:08)	V130.30
43:14 - 43:19	43:11 THE WITNESS: We had the capability. 43:12 Yes. Howard, June 04-25-2019 (00:00:17)	V130.31
43:24 - 43:24	43:14 Q. And in 2006, while you were the chief of 43:15 the targeting and analysis group, sitting here 43:16 today, you're not aware of any investigation or 43:17 use of ARCOS data or monthly monitoring of the 43:18 pharmacies and doctors that were identified in 43:19 the termination notices; is that correct? Howard, June 04-25-2019 (00:00:01)	V130.32
44:23 - 44:25	43:24 THE WITNESS: That's correct. Howard, June 04-25-2019 (00:00:09)	V130.33
45:04 - 45:04	44:23 Q. Would you agree that ARCOS data would 44:24 have been helpful to distributors to identify 44:25 potential diversion? Howard, June 04-25-2019 (00:00:00)	V130.34
45:06 - 45:13	45:4 THE WITNESS: Yes. Howard, June 04-25-2019 (00:00:19)	V130.35
	45:6 Q. Now, DEA stopped sending termination	

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	45:7 notices to distributors, correct?	
	45:8 A. Correct.	
	45:9 Q. And do you know when the DEA stopped	
	45:10 sending termination notices to distributors?	
	45:11 A. Based on the DEA records that I	
	45:12 reviewed, it appears that it ceased in	
	45:13 December 2007.	
47:02 - 48:03	Howard, June 04-25-2019 (00:01:54)	V130.36
	47:2 Q. Why did DEA stop sending the termination	
	47:3 notices to distributors?	
	47:4 A. Based on my review of the DEA records,	
	47:5 it appears the notification process ceased	
	47:6 because diversion investigators in the field	
	47:7 expressed concern about the notification, and	
	47:8 individuals on the listing were legitimate	
	47:9 pharmacies or doctors and needed their product	
	47:10 for legitimate medical purposes.	
	47:11 Also, the threat of potential	
	47:12 litigation. And -- that's it for now, if I	
	47:13 can -- yeah.	
	47:14 Q. And what were the concerns of the	
	47:15 diversion investigators?	
	47:16 A. That registrants that were identified	
	47:17 had legitimate purposes for ordering product and	
	47:18 they should not be blacklisted.	
	47:19 Q. And you mentioned the threat of	
	47:20 potential litigation. Did I hear that	
	47:21 correctly?	
	47:22 A. That's correct.	
	47:23 Q. What was the threat of potential	
	47:24 litigation that you mentioned?	
	47:25 A. In my review of some of the DEA records,	
	48:1 Kyle Wright mentioned that once the notification	
	48:2 termination memos were distributed, pharmacies	
	48:3 and DEA registrants threatened to sue him.	
49:02 - 49:05	Howard, June 04-25-2019 (00:00:15)	V130.37
	49:2 Q. Was the threat of litigation, was that	
	49:3 threat too scary for the DEA so that it decided	
	49:4 it would stop sending the termination notices to	
	49:5 distributors?	

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49:08 - 49:09	Howard, June 04-25-2019 (00:00:05) 49:8 THE WITNESS: I believe it contributed 49:9 to ceasing sending out the notifications.	V130.38
50:12 - 50:16	Howard, June 04-25-2019 (00:00:16) 50:12 Q. The DEA -- Ms. Howard, did the DEA stop 50:13 sending distribution notices after hearing 50:14 concerns about the threat of litigation against 50:15 the DEA from pharmacies and doctors that were 50:16 identified in the termination notices?	V130.39
50:19 - 50:21	Howard, June 04-25-2019 (00:00:05) 50:19 THE WITNESS: That was one of the 50:20 reasons. It appears that they ceased sending 50:21 the notifications.	V130.40

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